## REMARKS

1.      Applicant thanks the Examiner for his remarks and observations.

2.      It should be appreciated that Applicant has elected to amend Claims 1, 22 and 31 solely for the purpose of expediting the patent application process in a manner consistent with the PTO's Patent Business Goals, 65 Fed. Reg. 54603 (9/8/00).  In making such amendments, Applicant has not and does not in any way narrow the scope of protection to which Applicant considers the invention herein to be entitled.  Rather, Applicant reserves Applicant's right to pursue such protection at a later point in time and merely seeks to pursue protection for the subject matter presented in this submission.

3.      Claim 1 stands rejected under 35 USC § 103(a) as being unpatentable over U.S. Patent No. 5,301,105 ("Cummings") in view of U.S. Patent No. 5,590,038 ("Pitroda"). Applicant respectfully disagrees.

A.      PROVIDER TERMINAL

The Examiner relies on Figure 1, 11, 24, 27 and 28; and Col. 7, line 17 to line 25 as teaching "at least one provider terminal in communication with said central host computer; wherein said provider terminal is one of a portable computer, personal information device, personal digital assistant, personal computer, or server computer." In fact, elements 24, 27 and 28 of Figure 1 merely indicate entities that are in communication with the processing system 10. There is no further description of these entities or their manner of communicating with the processing system. Col. 7, line 17 to

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line 25 essentially describes a telephone, having a display window, numeric keypad and card data entry slot – in short, a simple input/output device. There is no indication or suggestion that the terminal has storage capability and/or processing capability, although lines 54 – 55 of Col. 7 suggest that the provider terminal may have storage capability. In stark contrast, the alternative provider terminals described in Claim 1 inherently include both storage and processing capability. There is, thus, no teaching in Cummings of "at least one provider terminal in communication with said central host computer; wherein said provider terminal is one of a portable computer, personal information device, personal digital assistant, personal computer, or server computer."

## B. BILLING MODULE

The Examiner relies on Col. 5, line 2 to line 8 of Cummings as teaching "a billing module for calculating billing information for a service provided to the at least one individual service recipient." Actually the cited teaching has nothing at all to do with billing. Rather it describes the Claims file 20 of Figure 1. As described, the Claims file serves only a storage function, for "detailed information covering relevant items of interest in ensuring accurate administration of claims in accordance with applicable criteria. Included are items such as those relating to claims histories, claims under review and claims in process." There is no design of a billing function or data used to create such a function. Thus, there is no teaching or suggestion in Cummings of a billing module for calculating billing information for a service provided to the at least one individual service recipient.

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## C.   INSURANCE BENEFITS MODULE

The Examiner relies on Col 5, line 53 to line 68 of Cummings as teaching "an insurance benefits module for calculating available insurance benefits for a service provided to the at least one individual service recipient." In fact, what is described is the insurance company file 18, figure 1. As with the billing module, above, Cummings describes a file containing insurance benefit information. Cummings merely describes that "system memory" includes or has access to the data. There is no RAM capability that could maintain such data and there is no means defined within Cummings invention to obtain the data necessary. Accordingly, there is no teaching in Cummings of an insurance benefits module for calculating available insurance benefits for a service provided to the at least one individual service recipient.


## D.   SERVICE PARTICIPANT'S HEALTH RECORDS

The Examiner relies on Col. 4 line 30 to line 39 of Cummings as teaching wherein said at least one service recipient's health care data records are stored on said central host computer and said provider terminal." Applicant respectfully disagrees. Cummings merely notes that processing systems are known to contain substantial storage capacity for storage of large bodies of information, such as the files denoted in Figure 1. While some of the files, such as the insured file and the employer file contain service recipient information, there is no teaching in Cummings of a service recipient's health care data records are stored on said central host computer and said provider terminal.


## E.   MODULES

The Examiner relies on Column 7, line 50 to line 68 as teaching "wherein said provider terminal includes: a medical insurer module; a health plan sponsor module; an

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individual service recipient module; a health care service provider module; a health care research module; and a service support module." Applicant respectfully disagrees. There is no teaching whatsoever in Cummings of an individual service recipient module, or a health care research module or a service support module. Otherwise, the Examiner apparently construes the various data files indicated in Cummings's Figures 1 and 3 as "modules." However, there is no detail on what any of these "files" are, how they are constructed or how they are used. Accordingly, Cummings description is not enabling to one having an ordinary level of skill in the art.

F   MEDICAL INSURER MODULE

The Examiner relies on Col 4, line 53 to line 62 as teaching "wherein said medical insurer module includes functions for plan definition, open enrollment marketing features, automated authorization of benefits, automated referrals, and service payment accounting." Cummings insurance file provides a listing of information such as "identification of covered illnesses and procedures, limits on insurance company payments for various illnesses and procedures, treatments and procedures for which utilization review is required, and treatments and procedures for which second opinions are necessary." There is no teaching whatsoever of open enrollment marketing features, automated authorization of benefits, automated referrals, and service payment accounting. Additionally, there is no design included on how any of this would work. Accordingly, Cummings description is not enabling to one having an ordinary level of skill in the art.

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## E.  HEALTH PLAN SPONSOR

The Examiner relies on Col. 9, line 9 – 25 of Cummings as teaching "wherein said health plan sponsor module includes functions for open enrollment processes, benefit plan information maintenance, and coordination of distribution and activation or deactivation of individuals." Applicant respectfully disagrees. Cummings teaches "the identification of the applicant and the authorization of the applicant to participate in the system as denoted by Is Patient Authorized rectangle 102 . . . If verification by the System reveals that the applicant is not authorized to participate, then an indication thereof is produced.  This may take any of a variety of forms such as a visual or audible indication.  Such an indication is represented by the rectangle 103 which contains the illustrative message Print "Sorry Not Authorized, Call 1-800-4Health." Thus, Cummings merely teaches a process for determining eligibility. There is no teaching whatsoever of functions for open enrollment processes, benefit plan information maintenance, and coordination of distribution and activation or deactivation of individuals.

## F.  HEALTH CARE SERVICE PROVIDER MODULE.

The Examiner relies on Col. 6, line 44 – to Col. 7, line 2 of Cummings as teaching "wherein said health care service provider module includes functions for maintaining service recipient records, diagnosing and treating service recipient ailments, managing service payments, accounting services, and maintaining service provider records, including licensing information, staffing affiliations, organizational ownership information, tax identification information, curriculum vitae of licensed practitioners, as well as information regarding disciplinary actions." In fact, the cited portion of Cummings describes a function of the physician's file, wherein "the physician's file is interrogated,

and the system prepares a list of the most likely medical condition corresponding to such symptoms, together with the generally approved and/or recommended treatment protocols" (emphasis added). Accordingly, Cummings describes an interactive diagnostic tool. There is no teaching of maintaining service provider records, including licensing information, staffing affiliations, organizational ownership information, tax identification information, curriculum vitae of licensed practitioners, and well as information regarding disciplinary actions.


## G.    HEALTH CARE RESEARCH MODULE

The Examiner relies on Col. 10, line 66 to Col 11 line 10 of Cummings as teaching "wherein said health care research module includes functions for collecting data on said system for research and analysis of health care issues." Applicant respectfully disagrees. What is actually described is a data entry process wherein test results are entered either manually or in a semi-automated process." There is absolutely no teaching of a module that collects data for research and analysis of health care issues. Furthermore, Cummings doesn't describe where the results are to be entered.  There is no file that could be used for this purpose other than the open text file called "Physician File" 44, and that would have no means of accessing data as it is not a database.  In addition, this passage of Cummings discusses looking at test results (albeit with no means for doing so) and not for the large scale research and analysis functions defined by the invention.  Cummings is irrelevant to health care research.

## H. SERVICE SUPPORT MODULE

The Examiner relies on Col. 14, line 39 to line 48 of Cummings as teaching "wherein said service support module includes functions for <u>service parameter maintenance, product support, customer requests, and system maintenance</u>." In fact, the cited portion of Cummings <u>describes a flow diagram of post treatment matters and preventive healthcare measures</u>. Accordingly, there is no teaching in Cummings of a <u>service support module</u> that includes functions for <u>service parameter maintenance, product support, customer requests, and system maintenance</u>. Cummings doesn't even contemplate the need for such system services.

## I. ACCESS TO SOCIAL SECURITY, ANNUITY, RETIRMENT ACCOUNT AND BENEFITS

The Examiner relies on Col 5, line 11 to line 18 of Cummings as teaching "wherein said system provides access to Social Security, annuity, retirement account, and benefit information." In fact, Cummings merely describes the employer file – "which is indicative of <u>those employee data which affect operation and implementation of the Wellness Health Management System</u>. Examples are <u>employee identification data such as employee identification numbers, length of service where such length of service affects participation in and coverage under the System, coverage for dependents, and similar items</u>." Thus, the cited section of Cummings has almost nothing to do with <u>Social Security, annuity, retirement account, and benefit information</u>.

## J.    DATABASES

The Examiner relies on Col. 4, line 30 – line 39 of Cummings as teaching "wherein <u>said</u> <u>medical insurer module, said health plan sponsor module, said individual service</u> <u>recipient module, said health care service provider module, said health care research</u> <u>module, and said service support module include databases for storing information.</u>" Cummings actually teaches "many processing systems contain substantial memory storage capacity, and the system hereof advantageously employs such memory storage capacity to record a number of important bodies of data and other information. Some of such data and information are represented by the cylinders in Fig. 1. These may either be a part of the memory of the processing system 10 or may be in other data banks that are accessible to the processing system 10." Thus, Cummings alludes to the fact that the processing system contains substantial storage capacity, and that it is used to store information. However, Cummings <u>does not define databases to support these modules</u> <u>nor does he either define such modules</u>.

## K.    INDEXING KEYS

Cummings does not define indexing keys for linking relational databases; Johnson does. Cummings doesn't even define databases nor does he apparently know that relational databases exist; therefore he certainly does not know that indexing keys are required. At page 4, line 14 to line 15 of the Office Action, the Examiner notes that indexing keys are utilized for linking relational databases. Applicant is unsure of the Examiner's purpose in making the observation. Is the Examiner taking Official Notice that the practice is old? If so, Applicant respectfully requests that the Examiner either

provide a reference supporting the finding, or enter an affidavit to that effect into the Official Record if the finding is based on the Examiner's personal knowledge.

4. In spite of the above, in the interest of expediting prosecution of the application, Applicant has amended Claim 1 as follows:

A. SERVICE RECIPIENT'S HEALTH RECORD

The service recipient's health record is described as comprising <u>a structured database of health care records constructed at points of service, an updatable problem list, and care plans, wherein local records are linked to remotely stored records</u>. Support for the amendment is found in the specification at page 9, line 5 to line 10 and further at page 16, line 15 to line 23. There is no teaching in Cummings of a service recipient health record. While Cummings describes patient data, for example in the 'insured' file and in the 'Employer' file, there is no teaching of linking such data into a<u> structured database of health care records</u>. Applicant notes that Pitroda does describe a patient health record, however Pitroda is silent as to the structure and content of the patient health record, beyond saying that it contains the patient's health history. Accordingly, there is no teaching or suggestion in the cited references, either separately or together, of a service recipient health care record comprising <u>a structured database of health care records constructed at points of service, an updatable problem list, and care plans, wherein local records are linked to remotely stored records</u>.

## B.    DATA DICTIONARY

Claim 1 is further amended to describe <u>a data dictionary for ensuring standardization of</u> <u>all system database elements</u>. Cummings does describe a number of data files, for example the 'Employer' file and the 'Insured' file. <u>Nothing is said, however, about the</u>

5    <u>format or data structure of such files and how the data in the files can be consolidated</u> <u>and conformed</u>. In fact, <u>Cummings even teaches that the 'Physician' file can be</u> <u>customized to the physician's own style and preferences</u> (Col 7, line 3 to line 7). Thus, <u>Cummings system appears to be incapable of achieving the objectives of the invention</u> <u>of collecting, consolidating, conforming and distributing health care data</u>. In stark

10    contrast, the invention recognizes that the various system database elements must be compatible with each other. To that end, the invention provides <u>a data dictionary for</u> <u>ensuring standardization of all system database elements</u>. While <u>Pitroda describes a</u> <u>plurality of interfaces for various service providers</u> (Figure 30) there is no teaching of <u>a</u> <u>data dictionary for ensuring standardization of all system database elements</u>.

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## C.    PAYMENT MODULE

The Examiner relies on see Col. 3, line 22 to line 26 as teaching "a payment module for electronically transferring funds to pay a bill for services provided to the at least one individual service recipient." Claim 1 is further amended to describe the payment

20    module as including "at least one shared platform service and at least one database managing processes for billing and payment." Support for the amendment is found in Figures 4, 5, and 9 and in the specification at least at pages 28, line 11 to page 30, line 24. There is <u>no teaching or suggestion</u> in the references, either separately or together,

of a <u>payment module that includes at least one shared platform service and at least one database managing processes for billing and payment.</u>


### D. AUTHORIZATION MODULE

5   The Examiner relies on Col. 11 line 37 to line 43 of Cummings as teaching an authorization module for authorizing service recipient treatment. Cummings teaches, "the system interrogates the Insurance Company (or other payor) files, e.g. file 18 in Fig. 1, and verifies that the ICD9 codes either meet or do not meet applicable criteria. This is noted by rectangle 128. In so doing, the expense associated with the incident is

10   considered as a claim and is reviewed as noted by rectangle 129 'Verify Claim for Proper Treatment and Charges.'" There is no design either for the "Insurance Company File" or for the process that would be required to enable this function. Applicant further amends Claim 1 to describe the authorization module as including "<u>at least one shared platform service and at least one database managing processes for authorization.</u>"

15   Support for the amendment is found in Figures 4, 6, and 9 and in the specification at least at pages 28, line 11 to page 30, line 24. There is <u>no teaching or suggestion</u> in the references, either separately or together, of a <u>payment module that includes at least one shared platform service and at least one database managing processes for authoriztion.</u>

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E.     The Examiner relies on Col. 4, line 22 to line 29) as teaching "a messaging module for providing messaging services to a component of said system." Cummings merely describes the <u>inclusion of an optional e-mail component</u>. Claim 1 is further amended to describe the messaging module as comprising "<u>a communications/ file</u>

transfer shared platform service that is used for communications between all system participants for all communication features of the system." Support for the amendment is found in Figure 9 and in the specification, at least at page 55, line 18 to page 59, line 15. There is no teaching or suggestion in the references, either separately or together, of a messaging module that comprises communications/ file transfer shared platform service that is used for communications between all system participants for all communication features of the system.

As such, the rejection of Claim 1 under 35 USC § 103(a) and all Claims depending therefrom is deemed overcome.

5.     Claims 22 through 30 have been amended similarly to Claim 1. Thus, the rejection under 35 USC § 103(a) of Claim 22 and all Claims depending therefrom is deemed overcome. The above discussion of Claim 1 is equally applicable to the corresponding features of Claims 22 – 30.

6.     Claim 31 has been amended to include a description of the service recipient record and the data dictionary, as in Claims 1 and 22. Therefore, the rejection under 35 USC § 103(a) of Claim 31 and all Claims depending therefrom is deemed overcome. The above discussion of Claim 1 is equally applicable to the corresponding features of Claims 31 – 36.

7.     Regarding Claims 3 and 32: While the rejection of Claims 3 and 32 is rendered moot by the above amendments to Claims 1 and 31, Applicant notes that there is <u>no teaching</u> in Cummings of <u>converting the healthcare data into a common format</u>. Cummings merely teaches a data entry step. The Examiner's finding is based on the Examiner's own conclusion that "test results would need to be converted to a common format for use throughout the system." Thus, the Examiner has used impermissible hindsight in formulating the rejection. The Examiner is respectfully reminded that all Claim limitations must be taught or suggested by the prior art.  MPEP § 2143.03.

8.     To further assist the Examiner in appreciating the patentable merit of the Claimed invention, Applicant attaches Appendices A – C. The material of the appendices is not to be taken as supplemental or optional but is to be considered an essential part of this Response, as if fully set forth in the main body of said Response. Appendix A provides a detailed explanation of the context diagram presented in Figure 3 of the application, using said context diagram to distinguish the invention from each of the responses. Appendix B provides a table that distinguishes the Claimed features of the invention from the cited references. Finally, Appendix C provides a table comparing the invention as described in the specification with each of the cited references.

## CONCLUSION

In view of the above, the application is deemed to be in allowable condition. Therefore, the Examiner is earnestly requested to withdraw all rejections and allow the application

to pass to issue as a U. S. Patent. Should the Examiner have any questions related to the application, he is urged to contact applicant's attorney at the telephone number given below.

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Respectfully submitted,

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